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December 3, 2024

VIA E.C.F.

Honorable Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Ferera v. the City of New York, et al.
24-CV-3911 (AT) (OTW)

Your Honor:

I am a Senior Counsel in the Office of Muriel Goode-Trufant, Acting Corporation Counsel of the City of New York, and the attorney representing the City of New York, Ofc. Vegamorales, Ofc. Rivera, and Ofc. Martinez in the above captioned matter.¹ Defendants write to respectfully renew their request a stay of discovery and an adjournment of the deadline to file the joint proposed Case Management Plan. This is Defendants' second request for a stay. Plaintiff does not consent to the instant request.

By way of background, Plaintiff filed the complaint on May 21, 2024. ECF No. 1. On September 27, 2024, Plaintiff filed an Amended Complaint. ECF No. 20. Plaintiff alleges that he was improperly arrested due to a false allegation that he had assaulted a hair stylist and that in the process of his arrest, NYPD officers used excessive force when they pointed a gun at Plaintiff. Plaintiff also alleges an Equal Protection violation related to the pointing of the gun at him. The City of New York filed an extension of time to answer which was granted by the Court. ECF No. 29, 30. Defendants' answer was due November 25, 2024.

On November 19, 2024, Defendants requested a stay of discovery and all relevant deadlines in light of an anticipated Motion to Dismiss. ECF No. 31. On November 20, 2024, the Court granted in part and denied in part Defendant's request for a stay and ordered that the parties were to submit a joint letter and jointly proposed Case Management Plan and Scheduling Order by December 4, 2024. ECF No. 33. On November 25, 2024, Defendants filed a Letter for Leave to File a Motion to Dismiss in accordance with Your Honor's Individual Rules. ECF No. 34. Plaintiff filed his response to Defendants' Motion for Leave on December 2, 2024. ECF No. 35.

¹ The Corporation Counsel is still in the process of determining representation for Defendant officer Rocio Florian.

Presently, the parties are still required to submit a joint letter and proposed Case Management Plan and Scheduling Order by December 4, 2024.

This request is being made because Defendants' Motion for Leave is still pending before the Court. Should Defendants be granted leave to file a Motion to Dismiss, defendants will file a fully dispositive motion to dismiss the case. There is a possibility that Defendants will be successful in dismissing some, if not all, claims through their Motion to Dismiss and thus the field of discovery will narrow. In an effort to save the parties' and the Court's resources, Defendants request a stay of discovery and adjournment of the Case Management Plan until motion practice has been completed.

Accordingly, Defendants respectfully request a stay of discovery and an adjournment of the Case Management Plan to a later date after motion practice has been completed, as well as an adjournment of all relevant deadlines.

Defendants thank the Court for its time and consideration herein.

The Court has reviewed the parties' letters dated November 25 and December 2, 2024. ECF Nos. 34, 35. Accordingly:

1. Defendants' request to file a motion to dismiss the amended complaint is GRANTED.
2. Plaintiff's request to move for summary judgment is GRANTED.
3. By **January 3, 2025**, the parties shall file their motions.
4. By **January 31, 2025**, the parties shall file their oppositions.
5. By **February 14, 2025**, the parties shall file their replies, if any.

Defendants' request to stay discovery, adjourn submission of the case management plan until after the conclusion of motion practice, and adjourn all relevant deadlines is DENIED. By **January 3, 2025**, the parties shall submit their joint letter and proposed case management plan in accordance with the Court's order at ECF No. 5.

Defendants are advised that the Court previously denied their request to adjourn submission of the case management plan until after the conclusion of motion practice. ECF No. 33. Accordingly, the Court will not grant any further extensions of this deadline absent exceptionally good cause shown.

SO ORDERED.

Dated: December 4, 2024
New York, New York


ANALISA TORRES
United States District Judge